

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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MICROSOFT CORPORATION,

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Plaintiff,

No. C 07-01839 JSW

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v.

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EEE BUSINESS INC., d/b/a EBUZONE.COM
and EBZ EBZ; MING NI SHANG; LIFENG
WANG, a/k/a ALICE WANG; NANCY
LINKER; and DOES 1-5,

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Defendants.

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
NOTICE OF THE FOLLOWING TENTATIVE RULING AND QUESTIONS FOR THE
HEARING SCHEDULED ON APRIL 11, 2008 AT 9:00 A.M.:

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The Court has reviewed the parties' papers and, thus, does not wish to hear the parties
reargue matters addressed in those pleadings. If the parties intend to rely on authorities not
cited in their briefs, they are ORDERED to notify the Court and opposing counsel of these
authorities reasonably in advance of the hearing and to make copies available at the hearing. If
the parties submit such additional authorities, they are ORDERED to submit the citations to the
authorities only, with reference to pin cites and without argument or additional briefing. Cf.
N.D. Civil Local Rule 7-3(d). The parties will be given the opportunity at oral argument to
explain their reliance on such authority.

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The Court **tentatively GRANTS IN PART AND DENIES IN PART** Plaintiff's motion
for partial summary judgment.

United States District Court

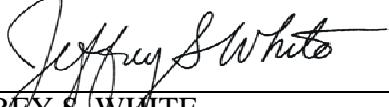
For the Northern District of California

1 The parties shall each have 15 minutes to address the following questions:

- 2 1. Although the Court may grant a permanent injunction “on such terms as it deems
3 reasonable to prevent or restrain a violation,” Microsoft has made no presentation that it
4 is entitled to the specific terms contained in its proposed order, except to the extent that
5 the terms duplicate the prayer for relief in its complaint. *See* 17 U.S.C. § 502(a); 17
U.S.C. § 1203(b)(1). For instance, on this record, can the Court conclude that
Defendant Wang is liable for infringing every one of the listed copyrighted Microsoft
software products? On what basis may the Court enter such an injunction?
- 6 2. Should the Court determine that it cannot assess the credibility of Alice Wang’s
7 declaration in this procedural posture and should it find that Defendant Wang is liable
only for contributory copyright infringement, can the Court only grant summary
judgment against Wang on claims one and two?
- 8 3. Has Defendant Wang responded to the outstanding Requests for Admissions? If not,
9 why should this Court not deem those requests admitted pursuant to Federal Rule of
10 Civil Procedure 36(a)(3)? In the case management statement, Defendants state that they
anticipate “filing a motion to withdraw admissions.” (CMC Stmt at 4.) On what basis
11 would Defendant so move? Having not yet presented the issue to the Court, is the Court
bound to deem the lack of responses admissions?
- 12 4. Do the parties have anything further they wish to address?

13 **IT IS SO ORDERED.**

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15 Dated: April 9, 2008

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JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE